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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,393	12/04/2003	Z. Jason Geng	40398-0005	9234
20480	7590	12/12/2008	EXAMINER	
STEVEN L. NICHOLS			PETERSON, CHRISTOPHER K	
RADER, FISHMAN & GRAUER PLLC			ART UNIT	PAPER NUMBER
10653 S. RIVER FRONT PARKWAY			2622	
SUITE 150				
SOUTH JORDAN, UT 84095				
MAIL DATE		DELIVERY MODE		
12/12/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/728,393	GENG, Z. JASON	
	<b>Examiner</b>	<b>Art Unit</b>	
	CHRISTOPHER K. PETERSON	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 22 August 2008.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-64 is/are pending in the application.

4a) Of the above claim(s) 1-31 and 37-64 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 32-36 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

### ***Response to Amendment***

1. The Amendment After Non-Final Rejection filed on 8/22/2008 has been received and made of record. Examiner notes that the Applicant has amended claim 32. Claims 32 - 36 are pending in this application.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 32 -36 have been considered but are moot in view of the new ground(s) of rejection.

### ***Election/Restrictions***

1. Claims 1 -31 and 37 – 64 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 2/28/2008. Examiner request Applicant change the claim identifier on claims 60 – 64 from original to withdrawn.

Claim 60 cites the limitation “a plurality of monochromatic sensors disposed around an object”. The applicant’s specification does not teach a plurality of monochromatic sensors disposed around an object in the elected species (Species 3: Figs. 5A and 5B). This limitation pertains to Figure 10 of the specification. As shown in FIG. 10, a system (1000) is presented including multiple 3D cameras having sensors

(1020) with different non-overlapping bandwidths positioned around an object to be imaged (1030). Each sensor (1020) may collect 3D data regarding the object to be imaged (1030) from different views using the above-mentioned high speed imaging methods (Para 52 of Applicant's Specification).

Applicant has selected Species 3: Figs. 5A and 5B (Remarks pg 18). Therefore claims 60 – 64 will be added to the withdrawn claims, as being drawn to a nonelected species (Species 4: Fig. 6 and 9:Fig. 10). Claims 60 – 64 will not be analyzed.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 32 – 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hasegawa (US Patent # 5,014,121) in view of Takata (US Patent Pub. # 2001/0002695).**

As to claim 32, Hasegawa (Fig. 1) teaches a high speed 3D surface imaging camera comprising:

- a light projector (light source lamp 9) for selectively illuminating an object to generate 3D image data (Col. 4, lines 39 – 46);

- an image sensor (image sensor 4) configured to receive reflected light from said object and to generate three separate color image data sets (frame memory 20(R), 21(G), and 22(B)) based on said reflected light (Col. 4, lines 16 – 33); and
- means for generating sequential color projections (filter disk 8) from said projector (9) onto said object to be photographed. Hasegawa shows in figure 4 the filter disc (8) is constructed in such a way that filters 8a, 8b and 8c having such spectral transmittances as will transmit there through only R light, only G light and only B light, respectively, are arranged at an equal interval from each other on a same circumference (Col. 5, line 65 – Col. 6, line 13).
- wherein said image sensor (4) is configured to eliminate cross talk between said sequential color projections (8) by allowing for a sequential exposure of said image sensor (4) within a single frame cycle, said sequential exposure corresponding with said sequential color projections (8) (Col. 4, line 60 – Col. 5, line 35). Hasegawa teaches a timing structure shown in figure 2. The filter disc (8) rotates and produces a signal PS once per revolution. The PR signal causes the CCD to read out the specific color and multiplexer (18) directs the image data to the proper frame memory (20(R), 21(G), and 22(B)). By sequentially projecting a specific color (RGB) and synchronizing the readout Hasegawa eliminates cross talk between the three colors.

Hasegawa does not teach said three separate color image data sets (RGB) providing said 3D image data of said object. Takata reference teaches a plurality of optical intensity patterns following periodic functions with varying wavelengths are projected onto the object so as not to interfere with each other. The least common multiple of the wavelengths of the periodic functions is larger than the extent having periodic inconstancy within the image pickup area. Takata teaches said three separate color image data sets (RGB) providing said 3D image data of said object (O) (Para 61 – 65). Takata teaches a phase value calculation means (9) calculates a plurality of phase values from the RGB image signals. The phase value calculation means (9) calculates XYZ coordinates and the 3D shape of the object (O) is uniformly measured (Para 61 – 65). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a 3D shape measurement method as taught by Takata to the image pickup system of Hasegawa, because to provide a 3D shape measurement method and a device using the same, whereby harmful influences of the periodic inconstancy is eliminated while maintaining measurement accuracy (Para 17 of Takata).

As to claim 33, Hasegawa (Fig. 7) teaches the high speed 3D surface imaging camera of claim 32, wherein said image sensor comprises a plurality of charge-coupled device (CCD) sensors (Col. 6, line 65 – Col. 7, line 12). Hasegawa teaches a 3-color separation prism (34') in an image pickup device of the 3-CCD system.

As to claim 34, Hasegawa (Fig. 7) teaches the high speed 3D surface imaging camera of claim 33, wherein said plurality of CCD sensors comprises 3 CCD sensors

(Col. 6, line 65 – Col. 7, line 12). Hasegawa teaches a 3-color separation prism (34') in an image pickup device of the 3-CCD system.

As to claim 35, Hasegawa (Fig. 5) teaches the high speed 3D surface imaging camera of claim 32, further comprising a computing device (reading out gate signal generator 25, gate signal generator 19, and synchronizing signal generator 31) communicatively coupled to said image sensor (4) wherein said computing device (25, 19, and 31) is configured to combine said separate color image data (20(R), 21(G), and 22(B)) sets into a composite Rainbow-type image of said object (Col. 4, line 62 – Col. 5, line 35). Hasegawa teaches that the reading out gate signal generator produces the signal to readout the specific color by the CCD (4). The gate signal generator (19) produces a timing signal to the multiplexer (18) and a signal to the synchronizing signal generator (31). The respective color signals which have been accumulated in these respective frame memories (20(R), 21(G), and 22(B)) are read out by the actions of a synchronizing signal generator (31), and they are integrated together as they are transferred either directly or passed through a delay circuit (32 or 33), and further through a D/A converter, to thereby be displayed in color on a screen of a color TV monitor (23) (Col. 5, lines 2 – 9).

As to claim 36, Hasegawa (Fig. 4) teaches the high speed 3D surface image camera of claim 32, wherein said means for projecting sequential color projections (8) comprises one of a rotatable color wheel (8), a deformable mirror, or a sequential RGB light emitting diode array (Col. 5, line 65 – Col. 6, line 13).

***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER K. PETERSON whose telephone number is (571)270-1704. The examiner can normally be reached on Monday - Friday 6:30 - 4:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tran Sinh can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. K. P./  
Examiner, Art Unit 2622  
3 Dec 2008

/Sinh N Tran/  
Supervisory Patent Examiner, Art Unit 2622